

Attorney/Client Privilege

MEMORANDUM

SUBJECT: Justification to Issue Notice of Violation
to USG Interiors, Inc.

FROM: Daniel Schaufelberger, Environmental Scientist
Air Enforcement and Compliance Assurance Section (MI/WI)

THRU: Sarah Marshall, Section Chief
Air Enforcement and Compliance Assurance Section (MI/WI)

TO: John Matson, Associate Regional Counsel
Office of Regional Counsel

EPA determined, through atmospheric dispersion modeling, that sulfur dioxide (SO₂) emissions from USG's two mineral wool cupolas (Cupola's #1 and #2) and two blow chambers (Blow Chambers #1 and #2), cause exceedances of the 1-hour average NAAQS for SO₂ over an extensive offsite area surrounding the Red Wind Plant. The highest 4th highest (modeling equivalent of 99th percentile) modeled 1-hour average off-site SO₂ concentration, using 5 years of meteorological data, was 1,120 µg/m³. The revised national primary ambient air quality standard for SO₂ is 196 µg/m³ based on a 3-year average of the 99th percentile of the annual distribution of daily maximum 1-hour concentrations.

The Minnesota SIP at Minn. R. 7009.0020 states that "no person shall emit any pollutant in such an amount or in such a manner as to cause or contribute to a violation of any ambient air quality standard beyond such person's property line, provided however, that in the event the general public has access to the person's property or portion thereof, the ambient air quality standards shall apply in those locations." Therefore, USG is violating Minn. R. 7009.0020 since it is causing an exceedance of the 1-hour average SO₂ NAAQS.

The Red Wing, Minnesota facility produces mineral wool (used to make such products as ceiling tiles) by melting a composite of slag and stone in its two operating metallurgical coke-fired cupolas. The melted product is directed to its two blow chambers where it is spun and blown into wool fibers. No add-on SO₂ control devices currently exist at the Red Wing facility.

This SIP violation was discovered through a dispersion modeling analysis using facility-specific information provided to EPA in three Section 114 information requests (issued April 8, 2009, August 13, 2009, and July 30, 2015) as well other modeling parameters provided to EPA by the Minnesota Pollution Control Agency.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mike Hill, Plant Manager
USG Interiors, LLC.
27384 Highway 61 Boulevard
Red Wing, Minnesota 55066

Re: Notice of Violation
USG Interiors, LLC.
Red Wing, Minnesota

Dear Mr. Metcalf:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to USG Interiors, Inc. (USG or you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you have violated the Minnesota State Implementation Plan (SIP) at your Red Wing, Minnesota facility.

Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings in the NOV, any efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Daniel Schaufelberger. You may call him at (312) 886-6814 to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely,

George T. Czerniak
Director
Air and Radiation Division

Enclosure

cc: Katie Koelfgen, Minnesota Pollution Control Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

USG Interiors, LLC.
Red Wing, Minnesota

Proceedings Pursuant to
the Clean Air Act
42 U.S.C. §§ 7401 *et seq.*

NOTICE OF VIOLATION

EPA-5-15-MN-03

NOTICE OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Notice of Violation (NOV or Notice) to USG Interiors, Inc. (USG), for violations of the Clean Air Act (the Act), 42 U.S.C. §§ 7401 *et seq.*, at its mineral wool production facility at 27384 Highway 61 Boulevard, Red Wing, Minnesota.

This Notice is issued pursuant to Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1). The authority to issue this Notice has been delegated to the Regional Administrator of EPA Region 5 and redelegated to the Director, Air and Radiation Division.

Statutory and Regulatory Background

1. The Act is designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its populations. Section 101(b)(1) of the Act, 42 U.S.C. § 7401(b)(1).

National Ambient Air Quality Standards

2. Pursuant to Sections 108 and 109 of the Act, 42 U.S.C. §§ 7408 and 7409, EPA revised the primary National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO₂) on June 22, 2010. 75 Fed. Reg. 35520 (2010). The revised national primary ambient air quality standard for SO₂ is 75 parts per billion (ppb) (196 µg/m³) based on a 3-year average of the 99th percentile of the annual distribution of daily maximum 1-hour concentrations. See 40 C.F.R § 50.17. EPA revised the primary NAAQS for SO₂ to provide increased protection of public health with an adequate margin of safety, especially for children, the elderly and those with asthma.

Minnesota SIP

3. Section 110(a) of the Act, 42 U.S.C. § 7410(a), establishes a program by which states prepare and submit to EPA plans to provide for the attainment and maintenance of the

national ambient air quality standards. Once EPA approves a state's submission, it becomes part of the federally enforceable State Implementation Plan (SIP).

4. On May 24, 1995, EPA approved Minnesota Rule Chapter (Minn. R. ch.) 7009 Subpart 0020, which prohibits a person from causing or contributing to a violation of any ambient air quality standards in Minnesota as part of the Minnesota SIP (60 FR 27411).
5. The Minnesota SIP at Minn. R. 7009.0020 states that no person shall emit any pollutant in such an amount or in such a manner as to cause or contribute to a violation of any ambient air quality standard beyond such person's property line, provided however, that in the event the general public has access to the person's property or portion thereof, the ambient air quality standards shall apply in those locations. The general public shall not include employees, trespassers, or other categories of people who have been directly authorized by the property owner to enter or remain on the property for a limited period of time and for a specific purpose.

Findings of Fact

6. USG is a corporation authorized to do business in Minnesota.
7. USG is a "person," as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).
8. At all times relevant to this Notice, USG owned and operated emission units at its mineral wool production facility at 27384 Highway 61 Boulevard, Red Wing, Minnesota ("Red Wing Plant").
9. Cupola #1, Cupola #2, Blow Chamber #1, and Blow Chamber #2 are SO₂ emission sources at the Red Wing Plant.
10. No add-on SO₂ emissions control devices are associated with the cupolas or the blow chambers at the Red Wind Plant.
11. On April 8, 2009, August 13, 2009, and July 30, 2015, EPA issued Section 114 information requests to USG requesting that the company provide, among other items, facility-specific production, fuel, and air pollution emissions data.
12. Based on atmospheric dispersion modeling of SO₂ emissions from the Red Wing Plant, EPA determined that the revised NAAQS for SO₂ was exceeded at an extensive offsite area surrounding the Red Wind Plant. The highest 4th highest (modeling equivalent of 99th percentile) modeled 1-hour average off-site SO₂ concentration, using 5 years of meteorological data, was 1,120 µg/m³.

Violations

13. USG caused or allowed the emission of SO₂ into the air in such an amount as to cause or contribute to ambient SO₂ concentrations in excess of the revised NAAQS for SO₂ in violation of the Minnesota SIP at Minn. R. 7009.0020.

Enforcement Authority

14. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), provides that at any time after the expiration of 30 days following the date of the issuance of a notice of violation, the Administrator may, without regard to the period of violation, issue an order requiring compliance with the requirements of the applicable SIP, issue an administrative penalty order pursuant to Section 113(d), or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties.
15. Pursuant to 40 C.F.R. § 52.23, any person failing to comply with an approved regulatory provision of a SIP is subject to an enforcement action under Section 113 of the Act, 42 U.S.C. § 7413.

Date

George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice and Finding of Violation, No. **EPA-5-14-MN-03** by Certified Mail, Return Receipt Requested, to:

Mike Hill, Plant Manager
USG Interiors, LLC.
27384 Highway 61 Boulevard
Red Wing, Minnesota 55066

I also certify that I sent copies of the Notice of Violation by first class mail to:

Katie Koelfgen
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155-4194

on the ____ day of _____, 2015.

Loretta Shaffer
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: _____

MEMORANDUM

SUBJECT: Recommendation to Issue a Notice of Violation
to USG Interiors, Inc.

FROM: Sara Breneman, Chief
Air Enforcement and Compliance Assurance Branch

TO: George T. Czerniak, Director
Air and Radiation Division

I recommend that you issue a Notice of Violation (NOV) to USG Interiors, Inc. (USG) for violating a provision of the Minnesota State Implementation Plan (SIP).

Specifically, EPA determined, through atmospheric dispersion modeling, that sulfur dioxide (SO₂) emissions from USG's two mineral wool cupolas (Cupola's #1 and #2) and two blow chambers (Blow Chambers #1 and #2), cause exceedances of the revised 1-hour average NAAQS for SO₂ over an extensive offsite area surrounding the Red Wind Plant. The highest 4th highest (modeling equivalent of 99th percentile) modeled 1-hour average off-site SO₂ concentration, using 5 years of meteorological data, was 1,120 µg/m³. The national primary ambient air quality standard for SO₂ is 75 ppb (196 µg/m³) based on a 3-year average of the 99th percentile of the annual distribution of daily maximum 1-hour concentrations.

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The Red Wing, Minnesota facility produces mineral wool (used to make such products as ceiling tiles) by melting a composite of slag and stone in its two operating metallurgical coke-fired cupolas. The melted product is directed to its two blow chambers where it is spun and blown into wool fibers. No add-on SO₂ control devices currently exist at the Red Wing facility.

This SIP violation was discovered through a dispersion modeling analysis using facility-specific information provided to EPA in three previous Section 114 information requests (issued April 8, 2009, August 13, 2009, and July 30, 2015) as well other modeling parameters provided to EPA by the Minnesota Pollution Control Agency

Attachment

State Representative Contacted: _____

Date: _____

By: _____